

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 30, 2022
TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk
FROM: Margo DuVal, Office of the General Counsel *KC for MD*
RE: Docket No. 20210138-PU

Please file the attached documents in the docket file listed above.

Thank you.

Attachment

RECEIVED-FPSC
2022 MAR 30 PM 1:25
COMMISSION
CLERK

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STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

March 30, 2022

Jamie L. Jackson, Chief Attorney
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400
japc@leg.state.fl.us

VIA EMAIL

**Re: Public Service Commission
Rule 25-18.020**

Dear Ms. Jackson:

This letter is in response to your letter dated March 22, 2022, in which you requested that we review and advise whether Subsection (7) of proposed Rule 25-18.020, Florida Administrative Code (F.A.C.), modifies the statutory language of Section 366.04(9)(b)3., Florida Statutes (F.S.).

Section 366.04(9)(b)3., F.S., states that monetary penalties imposed upon a communications services provider by the Public Service Commission (Commission) must be consistent with Section 366.095, F.S., Penalties. Section 366.095, F.S., states that the Commission has the power to impose a penalty upon entities subject to its jurisdiction that are found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission or any provision of Chapter 366, F.S.

Because Section 366.04(9)(b)3., F.S., requires that the pertinent monetary penalties must be consistent with Section 366.095, F.S., we conclude that Subsection (7) of proposed Rule 25-18.020, F.A.C., does not modify the statutory language of Section 366.04(9)(b)3., F.S., by setting forth that only a "willful violation" or "refusal to comply" will result in the enumerated monetary penalties.

Sincerely,

/s/ Margo A. DuVal

Margo A. DuVal
Senior Attorney

cc: Office of Commission Clerk

WILTON SIMPSON
President



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Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

March 22, 2022

Ms. Margo A. DuVal
Office of the General Counsel
Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

**RE: Public Service Commission
Rule 25-18.020**

Dear Ms. DuVal:

I have reviewed the above-referenced rule and offer the following comment for your consideration and response:

25-18.020(7): Section 366.04(9)(b)3., F.S., requires the Commission to adopt a rule regarding monetary penalties to be imposed upon "any communications service provider that fails to comply with any such rule of the commission." Subsection (7) of this rule implements this provision; however, the rule sets forth that only a "willful violation" or "refusal to comply" will result in the enumerated monetary penalties. Please review and advise whether this distinction modifies the cited statutory language. *See* § 120.52(8)(c), Fla. Stat. (2021).

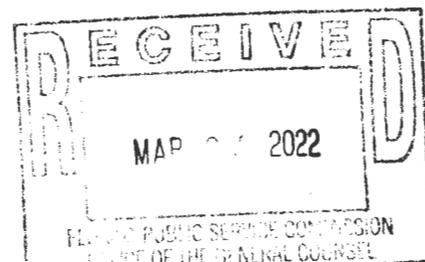
If you have questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,

A handwritten signature in black ink that reads "Jamie L. Jackson".

Jamie L. Jackson
Chief Attorney

JLJ:tf #186344



Julie Phillips

From: Margo DuVal
Sent: Wednesday, March 30, 2022 11:42 AM
To: 'japc@leg.state.fl.us'
Cc: 'Jackson, Jamie'; Julie Phillips; Adria Harper
Subject: Public Service Commission's Response Regarding Proposed Rule 25-18.020, F.A.C., Pole Safety, Inspection, Maintenance, and Vegetation Management
Attachments: Response re 25-18.020.pdf

Good morning,

Please see the attached response to the March 22, 2022 letter we received regarding the Public Service Commission's proposed Rule 25-18.020, F.A.C., Pole Safety, Inspection, Maintenance, and Vegetation Management.

Thank you,

Margo

Margo A. DuVal
Senior Attorney
Appeals, Rules, & Mediation Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
Phone: 850-413-6076
Email: mduval@psc.state.fl.us

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.